

**SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD****EXECUTIVE OFFICER'S REPORT****March 9, 2005****PART A****SAN DIEGO REGION STAFF ACTIVITIES** *(Staff Contact)***1. Equestrian Owner Education Meeting** *(John Phillips)*

On February 10, 2005, John Phillips of RWQCB staff participated in a public forum sponsored by the Ramona Equine Industry Network (REIN). The purpose of the forum was to provide owners and operators of commercial and private equestrian facilities in the Ramona area an opportunity to learn about water quality regulations that may apply to those operations. Approximately 60 people attended the meeting.

Speakers included representatives from four agencies: the San Diego County Department of Agriculture, the Regional Board, the Natural Resource Conservation Service (NRCS), and the University of California Cooperative Extension Farm and Home Advisors Office.

Topics discussed included an overview of the County non-point source ordinance and requirements, equestrian best management practices, state water quality regulations, and the types of assistance programs offered by the NRCS and UC Cooperative Extension.

**PART B****SIGNIFICANT REGIONAL WATER QUALITY ISSUES****1. Sanitary Sewer Overflows (SSO)** *(Charles Cheng, David Hanson, Bryan Ott, Victor Vasquez)*  
*(Attachment B-1)*

From February 1 to February 28, 2005, there were 28 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 18 of these spills reached surface waters or storm drains of which five resulted in closure of recreational waters. Of the total number of overflows from public systems, nine were 1,000 gallons or more. The combined total volume of reported sewage from all publicly owned collection systems for the month of January was 211,245 gallons.

There were also 10 sewage overflows from private property reported in February 2005. One reached surface waters or storm drains and did not result in closure of recreational waters. Of the total number of overflows from private property, two were 1,000 gallons or more.

Total rainfall amounts for February 2005 recorded at selected airports within or near the Region were as follows: San Diego Lindbergh Field, 5.83 inches (3.79 inches above normal February monthly rainfall); Orange County John Wayne Airport, 6.96 inches (4.11 inches above normal February monthly rainfall); and Riverside Airport, 6.47 inches

(4.16 inches above normal February monthly rainfall). For comparison, in January 2005, 4.49 inches of rainfall were recorded at San Diego's Lindbergh Field, and 36 public SSOs were reported. Also for comparison, in February 2004, 2.81 inches of rainfall were recorded at San Diego's Lindbergh Field and 36 public SSOs were reported. In the near future, Regional Board staff will analyze the recent SSOs to determine if they were caused by or related to the heavy rainfalls that the Region experienced in January and February 2005 in order to obtain insight to other possible SSO prevention approaches.

Attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through February 28, 2005, which contains a summary of all sanitary sewer overflows (by FY) from each agency since FY 2001-2002.

It should be noted that the data for spill volume per volume conveyed could be easily misinterpreted for a sewer agency that has a small system size but experiences a spill of a few hundred gallons or more. The converse is also true for a sewer agency that has a large system. Hence, these numbers by themselves are not sufficiently representative of the measures being taken by a sewer agency to prevent SSOs, nor can the numbers be compared directly between agencies. The data does represent a different way to review and analyze SSO volume data as it relates to system size.

For additional information on SSO's in FY 2003-2004 see the table entitled "Public SSO Statistics Summary for FY 2003-2004 (July 1-June 30)" attached to the October 2004 Executive Officer's Report (also available on the Regional Board's website [www.swrcb.ca.gov/rwqcb9](http://www.swrcb.ca.gov/rwqcb9)). Additional information about the Regional Board's SSO regulatory program is available at the Regional Board's website at <http://www.swrcb.ca.gov/rwqcb9/programs/sso.html>.

### **Issuance of Notices of Violation (NOV)**

Seven Notices of Violation (NOV) were issued during February 2005 for recent significant SSOs. The NOV's were issued to the sewer agencies and for the SSO events described below:

#### ***US Marine Corps Base Camp Pendleton***

NOV No. R9-2005-067

The United States Marine Corps Base Camp Pendleton (Base) notified this office of the following SSOs:

- A 5,500-gallon treated effluent overflow from the Base's wastewater treatment Plant 3 that occurred on January 9, 2005 between the hours of 2000 and 2350. The Base reported that this overflow occurred due to heavy rain. The Base reported that the overflow either entered into vegetation adjacent to the plant, or percolated into the ground; a vacuum truck recovered 1,500 gallons.
- A 5,400-gallon sewer overflow from the Base's wastewater collection system at 63 Area Lift Station 630121 that occurred on January 11, 2005 between the hours of 1200 and 1500. The Base reported that this overflow occurred due to loss of power

from SBC. The Base reported that the overflow entered Talega Creek/San Mateo Creek, and finally reached the Pacific Ocean. The San Diego County Department of Environmental Health reported that this overflow resulted in beach closure from January 12 to 19, 2005, and a warning advisory from January 19 to 21, 2005.

- A 39,000-gallon sewer overflow from the Base's wastewater collection system at Pump Station 33832 that occurred on January 12, 2005 between the hours of 1400 and 1610. The Base reported that this overflow occurred due to pressure failure in the potable water line that caused several flushometers to malfunction. The Base reported that the overflow percolated in an earthen ditch; vacuum trucks recovered 9,750 gallons.

### ***South Coast Water District***

NOV No. R9-2005-049

The South Coast Water District (District) notified this office of the following SSOs:

- A 1,400-gallon overflow from the District's wastewater collection system at 31871 Circle Drive in Laguna Beach that occurred on January 3, 2005. The District reported that this overflow resulted from a sewer line blockage resulting from unknown solid debris. The District reported that the overflow entered a storm drain and the Pacific Ocean. A report from the County of Orange Health Care Agency indicated that this overflow resulted in the closure of ocean recreational waters adjacent to a portion of 1,000 Steps County Beach in Laguna Beach to prevent public contact with waters that may have been impacted by the overflow. The District reported that it will install locking manhole covers in the area of the SSO to prevent unauthorized diversions of storm water runoff and debris into the sewer system.
- A 600-gallon overflow from the District's wastewater collection system at 34281 Camino El Molino in Capistrano Beach that occurred on January 7, 2005. The District reported that this overflow resulted from a sewer line blockage due to roots and debris. The District reported that the overflow entered a storm drain and the Pacific Ocean. A report from the County of Orange Health Care Agency indicated that this overflow resulted in the closure of ocean recreational waters adjacent to a portion of Capistrano Beach County Park to prevent public contact with waters that may have been impacted by the overflow.

### ***Santa Margarita Water District***

NOV No. R9-2005-050

The Santa Margarita Water District (District) notified this office of an estimated 100,000-gallon SSO from the District's wastewater collection system at 31563 Ortega Highway at Cristianitos Road east of San Juan Capistrano that occurred January 11-12, 2005. The District reported that the force main that crosses San Juan Creek from the District's Ortega lift station ruptured during heavy rainfall and was possibly damaged after a private bridge upstream washed out. The District reported that the overflow reached San Juan Creek, tributary to the Pacific Ocean. A report from the County of Orange Health

Care Agency indicated that this overflow resulted in the closure of ocean recreational waters adjacent to portions of Doheny State Beach, Capistrano County Beach, and Capistrano Bay District Beach in Dana Point to prevent public contact with waters that may have been impacted by the overflow.

***Fallbrook Public Utility District***

NOV No. R9-2005-051

The Fallbrook Public Utility District (District) notified this office of the following SSOs:

- A 3,000-gallon overflow from the District's wastewater collection system at 2800 South Mission Road in Fallbrook that occurred on December 28, 2004. The District reported that this overflow resulted from a force main line break. The District reported that the overflow entered Ostrich Creek, tributary to the San Luis Rey River and the Pacific Ocean. The District reported that warning signs were posted along Ostrich Creek to prevent public contact with waters that may have been impacted by the overflow.
- A 1,830-gallon overflow from the District's wastewater collection system the 800 block of Palomino Road in Fallbrook that occurred on January 7, 2005. The District reported that the cause of this overflow is unknown but may be related to heavy rainfall at the time. The District reported that the overflow entered an unnamed creek, tributary to Ostrich Creek, the San Luis Rey River and the Pacific Ocean. A report from the County of San Diego Department of Environmental Health indicated that this overflow contributed to the closure of ocean recreational waters adjacent to the shoreline at the San Luis Rey River outlet in Oceanside to prevent public contact with waters that may have been impacted by the overflow.
- A 1,875-gallon overflow from the District's wastewater collection system the 2800 block of South Mission Road in Fallbrook that occurred on January 9, 2005. The District reported that the cause of this overflow is a sewer line blockage from a piece of broken pipe. The District reported that the overflow entered Ostrich Creek, tributary to the San Luis Rey River and the Pacific Ocean. A report from the County of San Diego Department of Environmental Health indicated that this overflow contributed to the closure of ocean recreational waters adjacent to the shoreline at the San Luis Rey River outlet in Oceanside to prevent public contact with waters that may have been impacted by the overflow.
- A 3,600-gallon overflow from the District's wastewater collection system the 2800 block of Overland Trail in Fallbrook that occurred on January 23, 2005. The District reported that the cause of this overflow is a force main line break. The District reported that the overflow entered Ostrich Creek, tributary to the San Luis Rey River and the Pacific Ocean. The District reported that warning signs were posted along Ostrich Creek to prevent public contact with waters that may have been impacted by the overflow.

***Rainbow Municipal Water District***

NOV No. R9-2005-052

The Rainbow Municipal Water District (District) notified this office of a 1,625-gallon sanitary sewer overflow (SSO) from the District's wastewater collection system at 5708 North River Road in Oceanside that occurred on January 9, 2005. The District reported that the overflow was from inflow and infiltration during heavy rainfall at the time. The District reported that the overflow entered the San Luis Rey River, tributary to the Pacific Ocean. A report from the County of San Diego Department of Environmental Health indicated that this overflow contributed to the closure of ocean recreational waters adjacent to the shoreline at the San Luis Rey River outlet in Oceanside to prevent public contact with waters that may have been impacted by the overflow.

***Moulton Niguel Water District***

NOV No. R9-2005-0053

The Moulton Niguel Water District (District) notified this office of a 12,000-gallon SSO from the District's wastewater collection system at the intersection of Clubhouse Drive and Niguel Road in Laguna Niguel that occurred on January 10, 2005. The District reported that this overflow occurred due to a sewer line break. The District reported that the overflow reached Salt Creek, tributary to the Pacific Ocean. The District reported that the pump station then initially discharged the water and sewage from the creek to the Upper Oso recycled water reservoir but was then redirected to the collection system. A report from the County of Orange Health Care Agency indicated that this overflow resulted in the closure of ocean recreational waters adjacent to a portion of Salt Creek County Beach and Monarch Beach in Dana Point to prevent public contact with waters that may have been impacted by the overflow.

***City of Vista***

NOV No. R9-2005-054

The City of Vista (City) notified this office of a 21,000-gallon SSO that occurred on January 9, 2005 from the City's Raceway pump station located at 2689 South Melrose Drive. The City also reported a second SSO of 2,300 gallons from the Raceway pump station that occurred on January 11, 2005. The City reported that these overflows were caused by infiltration during heavy rainfall. The City reported the overflows were contained in and recovered from an unlined retention basin adjacent to the Raceway pump station. On February 26, 2004, the City had previously experienced a 7,400-gallon SSO at the Raceway pump station that was also related to infiltration during heavy rainfall.

**2. Clean Water Act Section 401 Water Quality Certification Actions Taken in February 2005** *(Stacey Baczkowski) (Attachment B-2)*

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. The majority of project applications are submitted because the applicant is also applying for a section 404 permit from the Army Corps of Engineers, and propose filling or armoring of creeks and streams. See attached table.

Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.waterboards.ca.gov/sandiego/programs/401cert.html>.

### 3. Grants Update (*Dave Gibson*)

#### **2003 Consolidated Grants Program Update**

The Rainbow Creek TMDL Implementation Project grant agreement is still undergoing grantee (County of San Diego) review. The Rainbow Creek project was recommended for funding through the federal Clean Water Act section 319(h) Non-Point Source Pollution Reduction Grant Program (319(h) Grant Program). The project includes the development of a Nutrient Reduction Management Plan through a stakeholder driven process to serve as the principle planning and guidance document for the Rainbow Creek watershed.

#### **Status of Proposition 13 and 319(h) Grant Program Projects**

The Regional Board and State Water Resources Control Board (SWRCB) are preparing to close out 7 Proposition 13 Phase I projects in March 2005. In addition, the Regional Board and the SWRCB are continuing to work with several Proposition 13 grantees who are now in breach of contract or whose projects are considerably behind schedule. The Regional Board will work with these grantees to return them to schedule, but in consultation with the SWRCB, it may recommend termination of the contracts if the grantee does not make satisfactory progress on the project.

#### **Agricultural Water Quality Grant Program (AWQGP)**

The AWQGP Selection Panel met January 26-27, 2005 and developed lists of projects recommended for funding. The Proposition 50 list was presented to the Bay-Delta Authority on February 10, 2005. The Proposition 40 and Proposition 50 Lists will be presented to the SWRCB at its Workshop on March 2, 2005. The SWRCB will consider adopting the lists at its March 17, 2005 meeting. The Selection Panel also developed lists of projects that need modification prior to being recommended for funding or that are not recommended for funding. Applicants whose proposals were not recommended for funding or whose proposals required modification were notified in February. Applicants invited to modify their proposals have until March 18, 2005 to address comments from the Selection Panel. The Selection Panel will meet in April to review and rank these proposals. Of the two proposals submitted from the San Diego region, one was rejected and the other was invited to submit a modified proposal.

#### **Proposition 50 Integrated Regional Water Management (IRWM) Grant Program**

The SWRCB and DWR are currently reviewing public comments received on the Draft Planning and Implementation Grants, Step 1 Proposal Solicitation Packages (PSPs). The final versions of the PSPs are planned for release to the public in mid-March 2005. In addition, SWRCB and DWR staff are coordinating applicant assistance workshops for the Planning and Implementation Grants Step 1 proposals, and preparation of the draft Implementation Grant, Step 2 PSP. The Planned workshop dates and locations are shown below:

March 22nd (Sacramento)  
March 30th (San Luis Obispo)

April 4th (Riverside)  
April 7th (Oakland)

The anticipated grant proposal submittal deadlines for Step 1 IRWM Planning and Implementation are mid-May 2005. A Review Panel including the SWRCB, Regional Boards, DWR, California Coastal Commission, and California Department of Fish and Game will convene to review and rank the proposals for funding recommendation to the Selection Panel.

### **Water Recycling Funding Program (WRFP)**

The WRFP, funded primarily by Proposition 50, will provide approximately \$42M statewide in this current funding cycle for the planning, design, and construction of water recycling projects. The Water Recycling Competitive Projects List (CPL) was adopted at the SWRCB meeting on January 20, 2005. The SWRCB has received approximately \$145 million of funding requests to date and is reviewing construction grant applications, postmarked by January 20, 2005 for completeness. The complete applications will be prioritized according to the WRFP guidelines for final review.

### **Clean Beaches Initiative (CBI) Grant Program**

The SWRCB sent out a draft competitive location list by email to coastal Regional Boards and County Environmental Health Directors on January 13, 2005. The list is designed to target specific beaches that are known to have persistent bacterial water quality problems. By targeting beaches with chronic postings, the remaining funds from the CBI grant program will be used for projects that reduce bacteria at the most critically impaired beaches. The email requested input on the final makeup of the list with response to SWRCB by January 28, 2005. The Clean Beaches Task Force met via teleconference on February 8, 2005 to discuss its final recommendation to the SWRCB. The final list will be considered for adoption by the SWRCB in April. The SWRCB is scheduling regional workshops for potential applicants during the month of April.

### **Dairy Water Quality Grants Program (DGP)**

The DGP draft guidelines have been released for agency review and will be posted on the DFA website for public review on or about February 16, 2005. There will be two public workshops on the draft guidelines in Riverside (March 22, 2005, 1-4 pm) and in Sacramento (March 24, 2005, 10am-2pm). More information on the DGP can be found at: <http://www.waterboards.ca.gov/funding/dairy.html>

### **Upcoming Grant Programs**

Several additional grant programs will be developed in 2005 and released as a Consolidated Grants Program. These additional grant programs include: 1.) Proposition 50 and Proposition 40 Non-Point Source and Coastal Non-Point Source Pollution Reduction Programs, 2.) Proposition 40 Urban Storm Water, and 3.) Proposition 40 Integrated Watershed Management grant programs. Draft guidelines and criteria are planned for release in August 2005. Final Guidelines are planned for release in December 2005 with anticipated grant awards planned for May 2006. It is important to note that the majority of the remaining Bond Act grants dollars available (approximately

\$144 million) through SWRCB competitive grant programs will be included in these programs. Consistency with TMDLs and locally adopted watershed management plans are likely to be important competitiveness criteria. The Regional Board is working with potential applicants to develop projects for these grants programs.

4. Update of the *Bacteria-Impaired Waters Total Maximum Daily Load (TMDL) Project I for Beaches and Creeks* (Christina Arias)

The Water Quality Standards (WQS) Unit submitted the draft technical report and draft Basin Plan Amendment language for the *Bacteria-Impaired Waters TMDL Project I for Beaches and Creeks* for scientific peer review on February 8, 2005. The Bacteria I project will result in completed TMDLs for 17 impaired water bodies. The peer review process is a requirement of Health and Safety Code section 57004. Two university professors are currently reviewing the scientific portions of the TMDL and should return their comments by the end of March 2005. Staff has been working closely over the past several months with the Stakeholder Advisory Group (SAG) to develop the technical report. The SAG consists of 15 people and includes representatives from coastal municipalities, environmental groups, agricultural interests, Caltrans, POTWs, and academia.

Staff and the SAG have been working together on the implementation elements of the TMDL project since December 2004. The implementation plan describes regulatory tools available to the Regional Board for enforcement of the waste load allocations, a monitoring plan, and a compliance schedule. At our first implementation meeting with the SAG, consultants working for Los Angeles County MS4 dischargers gave a presentation on the implementation provisions of the Santa Monica Bay Bacteria TMDL. On February 16, 2005, staff and the SAG met to hear overviews of bacteria-related monitoring studies in Mission Bay, San Diego River, and Aliso Creek. The purpose of this meeting was information sharing and incorporation of useful aspects and lessons learned from these projects into the monitoring component of the implementation plan.

The entire TMDL report (consisting of both technical and implementation components) will be released for formal public review once the implementation elements of the TMDL project are drafted, the environmental review is completed, and comments from the peer reviewers are incorporated into the technical report. Shortly thereafter staff will hold a public workshop to present the project and field questions. The project plan calls for a public hearing on the TMDL project at the October 2005 Board meeting. We plan to present the TMDL to the Regional Board for adoption at the December 2005 meeting.

5. Update of the *Chollas Creek Total Maximum Daily Load (TMDL) for Metals* (Jimmy Smith)

The Water Quality Standards (WQS) Unit submitted the draft technical report and draft Basin Plan Amendment language for the *Chollas Creek Metals Total Maximum Daily Load (TMDL)* for scientific peer review on February 14, 2005. This TMDL will address copper, lead and zinc impairments in Chollas Creek. The peer review process is a requirement of Health and Safety Code section 57004. Two university professors are



currently reviewing the scientific portions of the TMDL and should return their comments by the end of March 2005.

The WQS Unit continues to work on the implementation plan for the TMDL while peer review is taking place. The implementation plan includes a description of the regulatory alternatives available to the Regional Board to regulate the discharges of metals to Chollas Creek, the most reasonably foreseeable methods of compliance with the allocations and reductions, a schedule of compliance, and monitoring requirements. Other components of the TMDL project in preparation at this time include the environmental review and economic analysis. Once these elements are drafted and comments from the peer reviewers are incorporated, the entire TMDL report (consisting of both technical and implementation components) will be released for formal public review. Soon thereafter, a public workshop will be conducted to facilitate understanding of the TMDL. Tentatively, we anticipate that the public hearing on and adoption of this TMDL will occur in the May-June 2005 timeframe.

6. 14-Mile Border Fence Infrastructure System (Stacey Baczkowski) (Attachment B-6)

As previously reported (November and December 2004 Executive Officer Reports), the Regional Board received an application for 401 Water Quality Certification from the U.S. Border Patrol for the 14-Mile Border Infrastructure System, which is essentially a 14-mile long triple-fence structure along the U.S./Mexican Border. The Border Infrastructure System project crosses numerous watercourses and wetlands from the coastline to 3.5 mile inland, and will result in permanent impacts to approximately 10 acres of waters of the U.S., including riparian areas and coastal salt marsh.

On January 24, 2005, the Regional Board received a letter from the U.S. Army Corps of Engineers, Fort Worth District (ACOE) withdrawing the application for Section 401 water quality certification (Attachment B-6). The application was withdrawn to allow the applicant more time to comply with the California Environmental Quality Act (CEQA) and to prepare a revised jurisdictional wetland delineation. The CEQA process necessary to satisfy the Regional Board's role as lead agency for the project was described in a February 8, 2005 response to the ACOE (Attachment B-6).

On February 10, 2005, the U.S. House of Representatives passed H.R. 418, the REAL ID Act of 2005 (Act); this bill waives all environmental regulations for the completion of the proposed triple border fence. Section 102 of the Act states,

*"Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended to read as follows:*

*(c) Waiver-*

*(1) IN GENERAL- Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive, and shall waive, all laws such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section.*

*(2) NO JUDICIAL REVIEW- Notwithstanding any other provision of law (statutory or nonstatutory), no court, administrative agency, or other entity shall have jurisdiction--*

*(A) to hear any cause or claim arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1); or*

*(B) to order compensatory, declaratory, injunctive, equitable, or any other relief for damage alleged to arise from any such action or decision.”*

The bill is now under consideration by the U.S. Senate. Recent newspaper articles on HR418 are included as Attachments B-6.

7. Proposed Gregory Canyon Landfill (Carol Tamaki and John Odermatt) (Attachment B-7)

The Regional Board received the ninth Joint Technical Document for the proposed Gregory Canyon Landfill on January 27, 2005. By letter dated March 1, 2005 (Attachment B-7) and email, the Regional Board notified the discharger that the revised version of the JTD is deemed to be complete. A copy of this letter will be posted on this Regional Board's web page at:

[http://www.waterboards.ca.gov/sandiego/programs/units/ldu/gregory\\_canyon.html](http://www.waterboards.ca.gov/sandiego/programs/units/ldu/gregory_canyon.html)

The staff anticipates that the Regional Board will conduct at least one public workshop prior to scheduling a public hearing where the Regional Board members will be asked to consider tentative waste discharge requirements.

8. U.S. Marine Corps Camp Pendleton, Las Pulgas Landfill (Amy Grove and John Odermatt)

This item supplements information already provided to the Regional Board on developing waste containment problems at the Las Pulgas Class III Landfill (see Executive Officer Report for January 14, 2005).

On January 20, 2005 the USMC notified the Regional Board that approximately 1,000 gallons of leachate had overflowed the leachate collection tank at the Las Pulgas Landfill. The discharge of leachate into an unlined area of the landfill is a violation of WDR Order No. 2000-54. The Regional Board issued Notice of Violation (NOV) No. R9-2005-0040 to the USMC on February 1, 2005. The USMC continues to investigate disposal options for their leachate, which reportedly contains concentrations of tritium (above the established MCL at 20,000 pico-curies (pCi)/L). The USMC has informed the Regional Board that there are currently over 70,000 gallons of leachate being stored at the Las Pulgas Landfill.

On February 3, 2005 the USMC notified the Regional Board that “leachate seep(s)” were observed discharging liquid wastes from the south-facing downgradient slope located at the eastern end of the Phase 1 waste management unit (WMU). On February 10, 2005, the USMC estimated that a total of 300 gallons of leachate had been discharged from the seep(s) into an area located outside of the Phase 1 WMU. In written updates (dated February 10 and 18, 2005), the USMC further estimated that the flow rate for the

discharge of leachate varies from 0.5 to 0.6 gallon/hr (12 to 14 gallons/day). On February 9, 2005 the Regional Board issued NOV No. R9-2005-0071 to the USMC for failure to construct and maintain the waste containment and leachate collection systems in compliance with the Waste Discharge Requirements (Order No. 2000-54).

As a follow-up to NOV No. R9-2005-0071, under the authority of Water Code section 13267, the Regional Board issued Investigative Order No. R9-2005-0075 to the USMC on February 11, 2005. This Order requires the USMC to collect samples the "leachate seep(s)" for analysis from the Phase 1 waste management unit; and submit a technical report containing their analytical results and their findings to the Regional Board no later than April 11, 2005.

Based on the information provided to the Regional Board, staff has determined that the integrity of the liner in the Phase 1 waste management unit of the Las Pulgas Landfill has been compromised, and it appears that the liner system will not function as required by the original design provided to the Regional Board. In addition, the more recent observations of leachate seep(s) discharging liquid wastes from the sideslope appears to indicate that the designed conveyance of leachate (via the operations layer and leachate collection and removal system or LCRS) is not functioning in compliance with waste containment and performance requirements of Order No. 2000-54 (WDRs). The Regional Board staff is currently developing a formal enforcement action requiring the USMC to address the violations documented to date.

9. Goat Canyon Enhancement Project (*Stacey Baczkowski*) (*Attachment B-9*)

The Goat Canyon Enhancement Project (Project) is located in the Tijuana River Valley area near Border Field State Park. Ninety-one percent of Goat Canyon and its associated sub-watershed lie in Mexico. The project site is located just north of the international border, immediately west of Spooners' Mesa in the Tijuana River Valley (Attachment B-9). Recent development and squatter settlements, steep slopes, and sandy soils have all contributed to a great deal of erosion and sediment deposition within Goat Canyon Creek and the Tijuana Estuary. The Project was implemented by the State of California Department of Parks and Recreation to protect Tijuana Estuary from excessive sedimentation.

The project consists of a diversion structure that maintains low flows (3 cubic feet per second) within the existing Goat Canyon Creek channel, and diverts higher flows to two constructed sediment basins. A visual screening berm was also constructed adjacent to Monument Road. The project was authorized to impact 0.39 acre of southern willow scrub, 5.31 acres of mulefat scrub, and 0.25 acre of disturbed mulefat scrub, and 0.35 acre of mulefat elderberry scrub, for a total impact of 6.32 acres of jurisdictional waters of the U.S. Mitigation for the impacts consists of the creation of 2.59 acres of southern willow scrub and 20.71 acres of mulefat scrub on the Goat Canyon alluvial floodplain.

The two sediment basins have been constructed and are operational; however, not all basin features have been completed (e.g., concrete lining of the basin walls). During construction of the basins, Goat Canyon Creek moved from its previous location and

flowed into the incomplete basins (February 2004). This resulted in heavy erosion of the basin walls and of the downstream mitigation area, and sediment deposition in the estuary. The lack of erosion and sediment best management practices (BMPs) within the construction areas (e.g., basins and berms) also contributed to sediment discharge to the estuary. Photographs of the basins are included in Attachment B-9.

A Notice of Violation (NOV) was issued for the lack of BMPs that were observed during a March 3, 2004 inspection. A follow-up inspection on April 27, 2004 found that the violations identified in the NOV were not addressed. The State Department of Parks and Recreation (State Parks) were limited in what they could do to address the violation because of conditions in their Biological Opinion from the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG). State Parks did expect to obtain permission from the USFWS and CDFG to allow them to install BMPs.

A November 4, 2004 inspection found that existing BMPs were still insufficient and that the basins had filled with sediment (approximately 80,000 cubic yards). Sediment that had been previously removed from the basins (approximately 20,000 cubic yards) was also stockpiled onsite without BMPs to prevent further impacts to water quality. Furthermore, the basin outlet had eroded significantly and high flows from the basin began to erode a channel through the mitigation area. The Regional Board issued Cleanup and Abatement Order No. R9-2004-0455 on December 22, 2004 to address ongoing violations at the Project.

A January 6, 2005 inspection found that the existing BMPs were still inadequate and that significant erosion had occurred as a result of water flowing over the lower spillway; this resulted in more erosion of the mitigation area and sediment deposition in the estuary. The Regional Board continues to work with State Parks to address BMP concerns at the Project site.

The sediment basins were designed with the expectation that they would fill with sediment and debris every one to two years. However, the basins have been filling to capacity within one to two storm events. State Parks did not expect the basins to fill so quickly and do not have the necessary funds to maintain the basins as needed. The lack of maintenance results in the discharge of sediment to the mitigation area and estuary that would have otherwise been captured by the basins. The basin outlet also appears to have been designed incorrectly as significant erosion occurs when water flows through the outlet.

**10. Request for Cease and Desist Order - Duke Energy, South Bay Power Plant (Hashim Navrozali)**

On November 10, 2004 the Regional Board adopted the NPDES permit reissuance to Duke Energy for the South Bay Power Plant. Following the permit's adoption, the State Water Resources Control Board (SWRCB) received petitions from Duke Energy and from the group consisting of the San Diego BayKeeper, Environmental Health Coalition, San Diego Audubon Society, and the Surfrider Foundation—San Diego Chapter. The

SWRCB is currently reviewing the petitions and has yet to make a decision whether to hear the petitions.

During the February 9, 2005 Regional Board meeting, Mr. Bruce Reznik, Executive Director, San Diego BayKeeper, requested that the Regional Board consider issuing Duke Energy a Cease and Desist Order (CDO) for the continued degradation of south San Diego Bay from the South Bay Power Plant thermal discharge. At this time, the Regional Board is not considering recommending a CDO.

**11. Regional Harbor Monitoring Program (Peter Michael) (Attachment B-11)**

Monitoring of water quality in the five harbors of the San Diego Region will begin in mid 2005 with a marina copper monitoring effort. Mr. Ken Schiff of the Southern California Coastal Water Research Project (SCCWRP) will manage the copper sampling as a part of the larger proposed Regional Harbor Monitoring Program. In response to a letter sent by the Regional Board in August 2003, a monitoring program proposal was submitted by local agencies controlling the harbors.

The Port of San Diego, City of San Diego, City of Oceanside, and County of Orange will investigate water quality in five harbors: San Diego Bay, Mission Bay, Oceanside Harbor, Camp Pendleton Del Mar Boat Basin, and Dana Point Harbor. The United States Marine Corps was invited but has not yet participated.

The overall goal is to evaluate the degree to which water quality supports the designated beneficial uses of the harbors to allow the San Diego Regional Board to better prioritize its permitting and enforcement activities. Instead of being driven by programs, this effort monitors water quality directly, the most direct way to assess protection of beneficial uses. This San Diego Regional Board initiative could become the model for assessing harbors throughout California and the United States.

Features of this ongoing monitoring program include:

- cooperation between local, state, and federal agencies;
- coordination with other state-of-the-art marine monitoring programs;
- funding by the dischargers of waste to harbors;
- efficiency in the use of funding; and
- monitoring of the most important indicators of water quality for protection of beneficial uses.

Please see Regional Harbor Monitoring Program attachment for a more detailed description of the program.

**12. State Board Cleanup and Abatement Account and Supplemental Environmental Projects (Rebecca Stewart and Mark Alpert) (Attachment B-12)**

The following is intended to provide information on the Cleanup and Abatement Account and funding of Supplemental Environmental Projects (SEPs).

**Cleanup and Abatement Account**

The Regional Board has the authority to assess civil liability against dischargers that are in non-compliance with WDR/NPDES permits or when a violation was so egregious or serious as to result in significant impacts to warrant more aggressive enforcement. Since 2000 the Regional Board has assessed liability approximately 130 times for more than \$7,000,000. The Regional Board has diverted \$3,333,440 of the liability assessed to fund 18 SEPs. The remainder of the liability assessed has been deposited into the State Water Pollution Cleanup and Abatement Account (CAA) pursuant to Water Code Section 13440. The State Water Resources Control Board administers the CAA for: 1) contracting for services to cleanup or abate the effects of a waste; 2) remedying a significant unforeseen water pollution problem; 3) paying the oversight costs associated with a cleanup effort (includes staff support for the SLIC program and reimbursement to the Regional Boards for their expenditures incurred imposing civil liabilities that are deposited in the CAA); and 4) paying the costs associated with overseeing or tracking the implementation of a Supplemental Environmental Project (SEP) required as a condition of an order, imposing administrative civil liability.

**Supplemental Environmental Project (SEPs)**

The Regional Board may allow a discharger to satisfy some or all of the monetary assessment imposed in an administrative civil liability (ACL) order by funding one or more SEPs. SEPs are projects that will contribute to the enhancement, protection, or restoration of water quality and beneficial uses of waters in the San Diego Region. Projects are considered to be "supplemental" in that the project does not qualify to be funded and implemented through an existing program and does not involve an existing obligation created by any order or prohibition issued by the Regional Board. The Region has also requested funding for several other environmental assessment, protection, restoration, or enhancement projects from the CAA. A list of SEPs approved over the last 10 years is attached (Attachment No. B-12a). Currently, all SEPs funded by the Regional Board in recent years have been successfully completed, and there are no active SEPs ongoing in the San Diego Region.

**SEP Approval Process**

In 2000, the Regional Board established a procedure to facilitate the evaluation and acceptance of SEPs. In addition, State Water Resources Control Board Water Quality Enforcement Policy, adopted in Feb. 2002, added criteria to consider when approving SEPs. Each project application must meet the following criteria:

- The work involved will lead to improved water quality and support of beneficial uses of waters within the San Diego Region.
- The project has a well-defined scope of work, an estimate of the life-cycle cost, a stated duration with clearly defined goals and objectives, and methods to determine the effectiveness of the project after completion.
- The project includes documented support by other resource agencies, public groups and impacted persons and, when appropriate, include environmental impact

documentation such as a CEQA document.

- The project does not in any way consist of any pre-existing regulatory requirement of the Regional Board.
- The project includes the designation of a Project Trustee who will be acceptable to the Regional Board to provide oversight of funds and accountability for project accomplishment on the behalf of the Regional Board. The Project Trustee is required to frequently report progress to the Regional Board including participation at public meetings.
- There should be some nexus between the violation and the SEP. For example, a geographic nexus requires that the project be conducted in the same general area where the violation occurred. A beneficial use nexus addresses protection and improvement to beneficial uses affected by the violation.

### **SEP Application Process**

Project proposals are submitted to the Regional Board on a Supplemental Environmental Project Application. Proposed projects are then evaluated using the attached Supplemental Environmental Project Evaluation Checklist (Attachment No. B-12b). Projects considered by the Regional Board are ranked based on evaluation of the project's water quality, beneficial use, monitoring, public education and/or outreach attributes.

While SEPs can be a means of retaining some benefit of an enforcement action within a particular Region or area, oversight of such SEPs can require a significant amount of staff time. Even reliance on a third party for such oversight requires that the Regional Board ensure that this third party tracks completion. In 2003 the Bureau of State Audits, audited the State and Regional Boards management of the CAA and SEP oversight. The results were published in the auditor's December 17, 2003 report entitled "Water Quality Control Boards: They Could Improve Their Administration of Water Quality Projects Funded By Enforcement Actions." The report complimented the San Diego Region for properly enforcing the terms of the SEP agreements and, in one instance, for compelling a third party contractor to reimburse the State \$262,000 plus \$12,000 interest for a SEP project that had not been completed and was well past the due date specified by the Regional Board.

The status of SEPs funded and implemented by the Regional Board is reported to the Regional Board by the Executive Officer periodically in the Executive Officer's Report.

### **13. Caltrans Construction Storm Water Update (Kristin Schwall)**

The California Department of Transportation (Caltrans) has numerous construction sites located throughout our region. Large, multi-year sites include the Interstate 5 and 805 widening and construction of the State Route 125 toll road. There are also seven smaller construction sites along Interstate 15 and State Route 56. Compliance with state-wide construction storm water requirements has been variable at each of the Caltrans sites; the

Regional Board has issued approximately 20 Notices of Violation (NOVs) and a Cleanup and Abatement Order. Sites with repeated compliance problems are summarized below.

**Interstate 5 and 805 Widening:** Construction at this site started in March 2002 and is expected to continue until Fall 2007 with northbound lanes opening in Fall 2005. The Regional Board has conducted approximately 25 inspections of this site, and noted violations during nearly every inspection. The Regional Board issued nine NOVs to the site from December 2002 through January 2005 to address site deficiencies. Because of the continuing problems with the site, the Regional Board issued Cleanup and Abatement Order No. R9-2003-0230 in May 2003. Subsequent to issuing the CAO, the Regional Board has issued 5 NOVs. This site continues to have discharges of sediment to surface waters and the municipal separate storm sewer system (MS4) during every rain event. While this recent winter has seen considerable rainfall, the site discharges sediment even in the first hour of a storm event.

Implementation and maintenance of appropriate best management practices at this site are particularly important. This site is immediately adjacent to Los Penasquitos Lagoon, which is listed as impaired for sediment on the 2002 303(d) list. One of the contributing factors to repeated site failures, is the failure of Caltrans to identify and correct deficiencies at this site. Rather, Caltrans responds to violations noted during a Regional Board inspection. The Compliance Assurance Unit is considering further enforcement action against Caltrans.

**Caltrans' State Route 125 Toll Road:** This Project had two discharges during the storms in early January 2005, which accumulated approximately 7.0 inches of rain at the Bonita National Weather Service station. Large amounts of mud flowed onto the Bonita Golf Club. Some of this mud made it into the adjacent Sweetwater River. In addition, a large graded area at Mount Miguel Road had inadequate BMPs and inadequate controls for off site run-on. Sediment from the Mount Miguel area of the Project discharged to a downgradient construction site below, causing the construction site's sediment ponds to fail. A NOV and 13267 letter were issued for these discharges. Caltrans is contesting the Notice of Violation because of the size of the storm and other mitigating circumstances. The Regional Board is currently reviewing Caltrans' report.

**Interstate 15 Corridor:** Caltrans has seven construction projects along the Interstate 15 corridor from Friars Road to Lake Hodges. Since October 2004, there have been 14 reported discharges from these projects ranging from inadequate BMPs to a leak of an existing storm water pipe. Caltrans reports that corrective actions have been taken to address the discharges by submitting non-compliance reports, photos, and e-mails. The Regional Board will continue to conduct follow-up inspections to determine if corrective actions are effective.

Caltrans was planning to begin widening the Interstate 15 bridge over Lake Hodges during this winter. Before this rainy season, Lake Hodges was dry enough to allow construction without the use of coffer dams. Now, with a full lake from the recent heavy rains, Caltrans is planning to install coffer dams so that construction can proceed.



Caltrans is working with the Regional Board to ensure protection of the lake's water quality.

**Caltrans' State Route 56:** The middle section, located from Carmel Country Road to Carmel Mountain Road, had a large sediment discharge from inadequately stabilized slopes in October 2004. Treatment swales below the slopes filled with sediment and then discharged to inlets to the creek below. Caltrans reports that corrective actions have been taken to address the discharges. The Regional Board will conduct a follow-up inspection to determine if corrective actions are effective.

Because Caltrans' construction projects are often long-term (e.g., multiple years) and involve large areas of grading, they have a high potential to discharge sediment to surface waters if appropriate BMPs are not implemented and maintained. The Regional Board will continue to conduct inspections at all Caltrans sites and will pursue additional enforcement mechanisms as necessary to ensure the protection of water quality and beneficial uses.

**PART C**  
**STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION**

1. There are no items to report in Part C this month.